REMARKS

The Official Action of December 22, 2004 has been carefully considered and reconsideration of the application as amended is respectfully requested.

The indicated allowability of claim 38, if rewritten in independent form including all of the limitations of the base claim and any intervening claims, has been noted with appreciation. The Examiner appears to distinguish this claim from the other claims, which continue to be rejected over the cited art, on the basis that claim 38 sets forth a minimum time period for the recited initial phase of testing. However, it is respectfully submitted that the other claims implicitly also recite a minimum period, namely the period required for the mean weight loss of the rodents to achieve a loss of at least 15% of body weight.

The claims have now been amended expressly to recite this limitation, which is supported in the specification as filed at, for example, page 3, lines 11-26, Table 3 on page 20 and original claim 1. New claim 43, which corresponds to claim 1 as submitted with the Request for Continued Examination but includes the aforementioned limitation, has been added more completely to define the subject matter which Applicant regards as his invention. Since all of the claims set forth that the rodents are fed *ad libitum* under laboratory conditions and that the initial phase of testing encompasses the recited (functionally defined) time period, the claims set forth a minimum time period for the initial phase of testing, prior to the death of all rodents, that patentably distinguishes from the cited art, as next discussed.

The art cited at pages 2 and 3 of the Official Action does not teach, and in fact teaches away from, the claimed step of selecting a candidate material during an initial phase of testing wherein the animals experience a mean weight loss of at least 15% of body weight and wherein some or all of the tested rodents nevertheless survive. Henshaw teaches that the test for rodenticidal effect is the death of all of the tested rodents (see, e.g., Henshaw at page 5, lines 5-7, and Table II on page 6). The combination of three citations posited by the Examiner would teach one of skill in the art to vary dosage levels and possibly the rodenticidal material in order to determine the dosage of a particular rodenticidal material needed to kill the test rodents, but would not lead the skilled artisan to employ weight loss during an initial phase of testing, prior to the death of all rodents, as a criterion for selecting a candidate rodenticidal material.

The NCI '76 reference is concerned with determination of the lethal dose and the criterion for selecting the LD_{50} dosage is (by definition) death. The claimed invention is concerned with the selection of a candidate rodenticide which is likely to be effective in the field and utilizes weight loss in an initial phase as the selection criterion. This criterion is not taught by way of the citations (the mere observation of weight loss does not amount to selection on the basis of weight loss rather than death), and the invention has the advantage over the combination of citations that candidate materials which do not kill laboratory rats but which may kill rats in the wild can be identified.

In view of the above, it is respectfully submitted that all rejections and objections of record have been overcome and that the application is now in allowable form. An early notice of allowance is earnestly solicited and is believed to be fully warranted.

Respectfully submitted,

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